

1                                   **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

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3   **RESOLUTION NO.**

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5                   **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH**  
6                   **FLORIDA WATER MANAGEMENT DISTRICT AMENDING SECTION**  
7                   **101-41 OF THE DISTRICT POLICIES CODE RELATING TO AGENCY**  
8                   **ADMINISTRATION; DELEGATING THE AUTHORITY TO ISSUE**  
9                   **CERTAIN PERMITS TO THE EXECUTIVE DIRECTOR CONSISTENT**  
10                  **WITH THE 2009 AMENDMENTS TO CHAPTER 373, FLORIDA**  
11                  **STATUTES PROVIDED IT BECOMES LAW; PROVIDING THAT THE**  
12                  **EXECUTIVE DIRECTOR MAY EXECUTE THIS AUTHORITY THROUGH**  
13                  **DESIGNATED STAFF; PROVIDING FOR INCLUSION IN THE**  
14                  **DISTRICT POLICIES CODE; ACKNOWLEDGING THAT THESE**  
15                  **AMENDMENTS AND DELEGATION SUPERSEDE CERTAIN EXISTING**  
16                  **DISTRICT RULES RELATING TO THE SAME SUBJECT; PROVIDING**  
17                  **FOR SEVERABILITY; PROVIDING THAT THIS RESOLUTION SHALL**  
18                  **BE NULL AND VOID SHOULD THE AMENDMENTS BE VETOED BY**  
19                  **THE GOVERNOR; PROVIDING AN EFFECTIVE DATE**

20  
21                  **WHEREAS** the Florida Legislature in 2009 amended Chapter 373, Florida Statutes  
22 to require a governing board of a water management district to delegate to the executive  
23 director the authority to take final action on permit applications, variances and waivers  
24 issued under parts II or IV of Chapter 373, FS (“the amended statute”); and

25                  **WHEREAS** the Governing Board has determined that it is necessary, appropriate  
26 and in the public interest to formalize this delegation in conformance with the amended  
27 statute provided it becomes law; and

28                  **WHEREAS** the Governing Board acknowledges that the amended statute has the  
29 effect of superseding certain provisions that exist in District rules relating to the approval of  
30 permits, variances and waivers by the Governing Board and directs District staff to apply  
31 the amended statute where applicable; and

32           **WHEREAS** the Governing Board acknowledges that rulemaking will be necessary in  
33 order to conform the District’s rules to the amended statute, if it becomes law; now  
34 therefore

35           **BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA**  
36 **WATER MANAGEMENT DISTRICT:**

37 **Section 1.**           The Governing Board adopts the following amendments to the District  
38 Policies Code:

39           **Sec. 101-41. Agency Administration Delegations.**

40           (a)           The Governing Board delegates to the executive director its authority  
41 to take final action on permit applications under parts II or IV of Chapter 373,  
42 Florida Statutes or petitions for variances or waivers of permitting requirements  
43 under parts II or IV of Chapter 373 Florida Statutes provided it becomes law. The  
44 executive director may execute this delegated authority through designated staff.

45           ~~(a)~~ (b)       The Governing Board delegates to the Executive Director and General  
46 Counsel the authority to:

47           (1)   Accept donations of property to the District, including real property, interests  
48 in real property, and personal property.

49           (2)   Grant rights of entry onto District property and accepting rights of entry onto  
50 non-District property.

51           (3)   Execute all permit applications for permits sought by the District.

52           (4)   Certify rules for filing with the Department of State or the District Clerk.

53           (5)   Certify, pursuant to Section 119.07(3)(w), Florida Statutes, that investigatory  
54 records of the Inspector General require an exemption from disclosure under the  
55 Public Records Law, Chapter 119, Florida Statutes, to protect the integrity of an  
56 investigation or avoid unwarranted damage to an individual's good name or  
57 reputation.

58           ~~(b)~~ (c)       The Governing Board delegates to General Counsel, Deputy General  
59 Counsel, and Office of Counsel Attorneys the authority to:

60           Accept service of process for the District or staff acting in their official capacity.

61 **Section 2.**           Provided the amended statute becomes law, inclusion of Section 1 of this  
62 resolution in the District Policies Code is authorized and directed.

63 **Section 3.** Recognizing that the amended statute, provided it becomes law,  
64 supersedes the District's rules, District staff is directed to apply the District's rules in a  
65 manner that conforms to the amended statute.

66 **Section 4.** Provided the amended statute becomes law, District staff is hereby  
67 directed to commence rulemaking proceedings in order to conform the District's permitting  
68 rules to the amended statute and to review other types of permits approved by the  
69 Governing Board to determine whether delegation of the approval of those types of permits  
70 is warranted.

71 **Section 5.** If any section, subsection, subdivision, paragraph, sentence, clause or  
72 phrase of this resolution is for any reason held to be unconstitutional or invalid or  
73 ineffective by any court of competent jurisdiction, such decision shall not affect the validity  
74 or effectiveness of the remaining portions of this resolution.

75 **Section 7.** In the event that the amended statute is vetoed by the Governor, this  
76 resolution shall be deemed null and void without further action of the Governing Board.

77 **Section 6.** Provided the amended statute becomes law, the delegation made in  
78 Section 1 of this resolution shall take effect on July 1, 2009; the other matters addressed in  
79 this resolution shall take effect immediately on adoption

80 **PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

81  
82 **SOUTH FLORIDA WATER MANAGEMENT**  
83 **DISTRICT, BY ITS GOVERNING BOARD**

84 By: \_\_\_\_\_  
85  
86 Chairman

87 ATTEST  
88 \_\_\_\_\_  
89 District Clerk

Approved as to form:  
90 BY: \_\_\_\_\_

91 Office of Counsel